

MINUTES ORDINARY COUNCIL – 24 NOVEMBER 2009

Cr Ken Jordan entered the meeting at 8.02pm at the conclusion of Item 2.

ITEM NO. 3

FILE NO: PSC2006-0029

MEDOWIE STRATEGY REVIEW

REPORT OF: DAVID BROYD – GROUP MANAGER

GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Prepare a draft amendment and public exhibition of the Medowie Strategy to identify:
 - a. Site 1 Boundary Road as potential future Rural Small Holdings in the south west part and the remainder Environmental Management (**Attachment 1**);
 - b. Site 3 Waropara Road North as Rural Small Holdings and Environmental Living (**Attachment 2**);
 - c. Site 5 Ferodale Road West as Environmental Living (**Attachment 3**);
- 2) Make no change to the Medowie Strategy with respect to:
 - a. Site 2 Corner Ferodale Road and Kirrang Drive (**Attachment 4**);
 - b. Site 4 Coachwood Drive East (**Attachment 5**);
 - c. Site 6 Medowie Rd (Brocklesby Neighbourhood North) (**Attachment 6**);
 - d. Site 7 Wade Close (**Attachment 7**);
- 3) Prepare a planning proposal in accordance with section 55 of the Environmental Planning and Assessment Act 1979 to initiate the rezoning process of the Boundary Road site (Site 1) for Rural Small Holdings and Environmental Management purposes (**Attachment 1**) and request the NSW Department of Planning to undertake a 'gateway' determination, with no further action to be undertaken until Council's consideration of the exhibited Medowie Strategy incorporating the proposed draft amendments including Site 1 Boundary Road

COUNCIL COMMITTEE MEETING – 24 NOVEMBER 2009

RECOMMENDATION:

	Councillor Geoff Dingle Councillor Peter Kafer	That Council defer the matter until such time as Council receives the model from the Medowie Flood Drainage Study.
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In accordance with the Local Government Act 1993, a division is required for this item.

MINUTES ORDINARY COUNCIL – 24 NOVEMBER 2009

Those for the Motion: Crs Peter Kafer, Glenys Francis, Geoff Dingle, John Nell, and Frank Ward.

Those against the Motion: Crs Ken Jordan, Daniel Maher, Shirley O'Brien, Steve Tucker Bob Westbury and Bruce MacKenzie.

The Motion on being put was lost.

AMENDMENT:

	Councillor John Nell Councillor Frank Ward	That Council defer to allow for a site inspection.
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Peter Kafer, Glenys Francis, Geoff Dingle, John Nell and Frank Ward.

Those against the Motion: Crs Ken Jordan, Daniel Maher, Steve Tucker, Shirley O'Brien, Bob Westbury and Bruce MacKenzie.

The Amendment on being put was lost.

MOTION:

	Councillor Bruce MacKenzie Councillor Steve Tucker	That Council: 1. Prepare a draft amendment and public exhibition of the Medowie Strategy to identify: a. Site 1 Boundary Road as potential future Rural Small Holdings in the south west part and the remainder Environmental Management (Attachment 1); b. Site 3 Waropara Road North as Rural Small Holdings and Environmental Living (Attachment 2); c. Site 5 Ferodale Road West as Environmental Living (Attachment 3); 2. Make no change to the Medowie
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MINUTES ORDINARY COUNCIL – 24 NOVEMBER 2009

ORDINARY COUNCIL – 24 NOVEMBER 2009

390	Councillor Daniel Maher Councillor Bob Westbury	It was resolved that the Council Committee recommendation be adopted.
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Those for the Motion: Crs Daniel Maher, Steve Tucker, Shirley O'Brien, Bob Westbury and Bruce MacKenzie

Those against the Motion: Crs Peter Kafer, Glenys Francis, Geoff Dingle, John Nell and Frank Ward.

The Motion was carried on the casting vote of the Mayor.

MINUTES ORDINARY COUNCIL – 24 NOVEMBER 2009
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ORDINARY COUNCIL – 24 NOVEMBER 2009

390	Councillor Daniel Maher Councillor Bob Westbury	It was resolved that the Council Committee recommendation be adopted.
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Those for the Motion: Crs Daniel Maher, Steve Tucker, Shirley O'Brien, Bob Westbury and Bruce MacKenzie

Those against the Motion: Crs Peter Kafer, Glenys Francis, Geoff Dingle, John Nell and Frank Ward.

The Motion was carried on the casting vote of the Mayor.

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GROUP: SUSTAINABLE PLANNING

RECOMMENDATION IS THAT COUNCIL:

- 1) Prepare a draft amendment and public exhibition of the Medowie Strategy to identify:
 - a. Site 1 Boundary Road as potential future Rural Small Holdings in the south west part and the remainder Environmental Management (**Attachment 1**);
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BACKGROUND

The purpose of this report is to determine whether to amend the Medowie Strategy with respect to seven (7) submissions seeking to include seven (7) sites (see Attachment 8 for location of all sites relative to Structure Plan in the Medowie Strategy).

On 24 March 2009 Council adopted the Medowie Strategy. At this time Council also resolved to prepare a Medowie infrastructure plan to address water, sewer, emergency services, roads, community facilities, flooding and drainage infrastructure, staging and funding methods. This plan is currently being prepared.

During the second exhibition of the Medowie Strategy and subsequent reporting to Council in March 2009, six submissions were received requesting amendments to the Strategy. Given that the Strategy was exhibited twice, it was not recommended that these sites be given consideration as this would require re-exhibition of the Strategy. The March 2009 report stated that if land owners seek to develop their land different to that proposed by the Strategy and that a compelling case exists to do so then a rezoning request could be submitted and reported to Council accordingly.

Another submission for inclusion in the Strategy was submitted on 21 August 2009. This brings the total number of sites for consideration to seven. The details of each site are as follows:

SITE 1 BOUNDARY ROAD

Property Description: Lots 93, 94, 95, 96 in DP 753194, Boundary Road.

Proponent: Eureka, submission by Urbis JHD September 2009.

Existing Zoning: 1(c1) Rural Small Holdings (minimum lot size 20 hectare. The Medowie Strategy does not identify any change in zoning for the site.

Submission Summary: request to rezone site part 1(c5) Rural Small Holdings (minimum lot size 2000m²) and 7(a) Environment Protection with potential yield of 260 rural residential lots ranging from 2000 - 8000m². The proposal provides an environmental corridor of approximately 50 hectares to be zoned 7(a) Environment Protection crossing the site in a northwest to southwest direction. The corridor is an Endangered Ecological Community – Swamp Sclerophyll Forest and includes a 50m buffer.

The submission states that the proposal provides a logical extension to existing rural residential development in Medowie. The large site area and common ownership provides opportunity to develop the land in a coordinated manner. A development control plan is proposed to be prepared for the site.

The site is adjacent to reticulated sewer and water services and there is potential for future development to be connected to those services should development occur. The proposal is consistent with the rural residential theme for this part of Medowie and is consistent with the principles and desired outcomes of the Medowie Strategy.

Comment: proponent originally requested site be identified for 1300 residential lots. The Medowie Strategy does not identify site as suitable for urban development for those reasons reported to Council in February 2008. The site is identified in the Lower Hunter Regional Strategy (LHRS) within the Watagan Stockton Green Corridor. Council has received previous advice from the Department of Planning in relation to other proposals within the LGA stating that the Green Corridor specifically precludes use of the LHRS sustainability criteria to consider and assess one-off developments (Department of Planning - 21st September 2007).

There is merit in considering rural residential development for the south west part of the site located adjacent to land to the south that is already zoned 1(c4) Rural Small Holdings. This area was not identified by the Medowie Strategy as having conservation significance. This part of the site could form a logical extension of rural residential development in Medowie subject to state government support.

flood storage, to achieve this. The submission indicates that there will be on-site flooding impacts.

The submission does not demonstrate consistency with planning directions for flood prone land under S.117 of the Environmental Planning and Assessment Act 1979.

Comment: the Medowie Strategy does not indicate site as suitable for commercial development, or recommend any change in land use, due to it being flood affected and that the location of commercial development on this land would fragment and undermine the existing town centre and its proposed expansion under the Medowie Strategy.

The use of underground car parking to avoid off-site flood impacts is noted. However, this is not a solution to the flooding impacts. There is likely to be increased risk to users and of the site if development proceeded as a proposal.

The submission provides that adjoining land to the east along Ferodale Road is flood affected and is already zoned 3(a) Business General. This is a historical matter derived without current flooding information that is now publicly available for this site and catchment. Arguing precedent does not justify zoning of recently recognised flood prone land for commercial development.

The submission focuses on the lack of environmental constraints on the site compared to other land that is identified commercial in the Medowie Strategy, particularly the land behind Bi-Lo. However, this land is not flood prone. Furthermore, the submission does not address the economic and social costs and impacts that developing the site would have upon the current and future town centre.

The Strategy identifies sufficient land for commercial use to support the projected population growth. This includes a draft LEP on the corner of Ferodale and Peppertree Roads that has been publicly exhibited and was recently submitted to Council for further consideration. It would not be suitable to amend the Strategy to reflect a commercial use for Site 2, having regard to the flooding implications and its' location relative to the town centre.

Recommendation: No amendment to the Medowie Strategy.

SITE 3 WAROPARA ROAD NORTH

Property Description: Lot 2 in DP 869411.

Proponent: Carman Surveyors 12 June 2008.

Existing Zoning: 1(c3) Rural Small Holdings (minimum lot size 1 hectare). The Medowie Strategy map does not identify any change in zoning for this site.

Submission Summary: request to have Site 3 identified for development in the Medowie Strategy although the specific type of land use change being sought is not stated.

Comment: The Medowie Strategy identifies the site as having low conservation significance whilst land to the south for residential and to the east for rural small holdings and part environmental living. There is existing rural residential development

SITE 5 FERODALE ROAD WEST

Property Description: Lot 106 in DP 1082077, Ferodale Road West.

Proponent: Monteath & Powys 18th June 2008.

Existing zoning: 1(c1) Rural Small Holdings (minimum lot size is 20 hectares). The Medowie Strategy map does not identify any change in zoning for the site.

Submission Summary: submission seeks to identify the site as Environmental Living. The site is adjacent to a parcel of land on Ferodale Road under the same ownership, and provides increased opportunities for coordinated development.

The submission is accompanied by advice provided by ecological consultants Biolink Pty Ltd indicating that Koala activity is focussed on the very western edge of Lot 106 where two Swamp Mahogany trees are located, with no evidence of significant koala activity elsewhere on the site. The advice does not oppose the appropriate development of the land and is of the opinion that a suitable rezoning with a biodiversity offset package may have merit.

Comment: The site exists within a context of rural residential development to the north and south of Ferodale Road. There is vegetation on the site and it is mapped in the Medowie Strategy as Preferred Koala Habitat and of mostly medium conservation value, and part high conservation value.

The size of the site and common ownership may provide opportunity for a coordinated development.

Environment Services do not object, in principle, to the identification of the site as Environmental Living in the Medowie Strategy. However, the environmental corridor identified in the Medowie Strategy in the vicinity of Site 5 requires refining given that it has a width of less than 100m and has limited connectivity. Environment Services recommends that additional land to the north should also be included to create a viable corridor.

If the Medowie Strategy is amended to include the site as Environmental Living it will facilitate further detailed investigation and consideration for potential development of the site.

Recommendation: amend the Medowie Strategy to identify Site 5 as Environmental Living.

SITE 6 MEDOWIE ROAD (BROCKLESBY NEIGHBOURHOOD NORTH)

Property Description Medowie Road Lot 1 in DP 567481 and Lots 7, 8 & 9 in DP 855814, Medowie Road (Site 6)

Proponent: ADW Johnson 3 June 2008.

Existing zoning: 1(a) Rural Agriculture. The site is identified in the Medowie Strategy as a mixture of Standard Residential, Home Enterprise, Environmental Living, Environmental Management and Parks.

Submission Summary: request to modify that part of the site identified as Environmental Living under the Medowie Strategy to Standard Residential based on the desire to accommodate extra development.

Medowie area and the associated environmental, economic and social issues and impacts that the Medowie Strategy is seeking to manage.

The site is impacted by the new ANEF 2025 maps and the site is identified in the 25-30 ANEF contour. State Planning S117 Direction 3.5 states that Council must not prepare a planning proposal to increase residential densities where the ANEF exceeds 25. Under AS 2021-2000 residential development is identified as 'unacceptable' in the 25-30 ANEF contour. The landowners have the ability to apply for subdivision on this site under the current zonings. Council is currently assessing a development application for a 28 lot subdivision for 3 Wade Close (DA 16-2002-1921).

Recommendation: no amendment to the Medowie Strategy and allow consideration of development under the current zoning and planning controls applicable to the site.

FINANCIAL/RESOURCE IMPLICATIONS

Other than Council planning, staff time and effort to exhibit the assessment and report the proposed amendments there are no financial/resource implications by amending the Medowie Strategy.

LEGAL, POLICY AND RISK IMPLICATIONS

The Medowie Strategy is adopted by Council and is used to provide strategic direction in making planning recommendations and decisions. By making amendments to the Strategy Council will be indicating its general support for future changes in land use for the relevant sites, subject to detailed investigations and site consideration as part of any planning proposal (i.e. rezoning) process occurring under the Environmental Planning and Assessment Act 1979.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

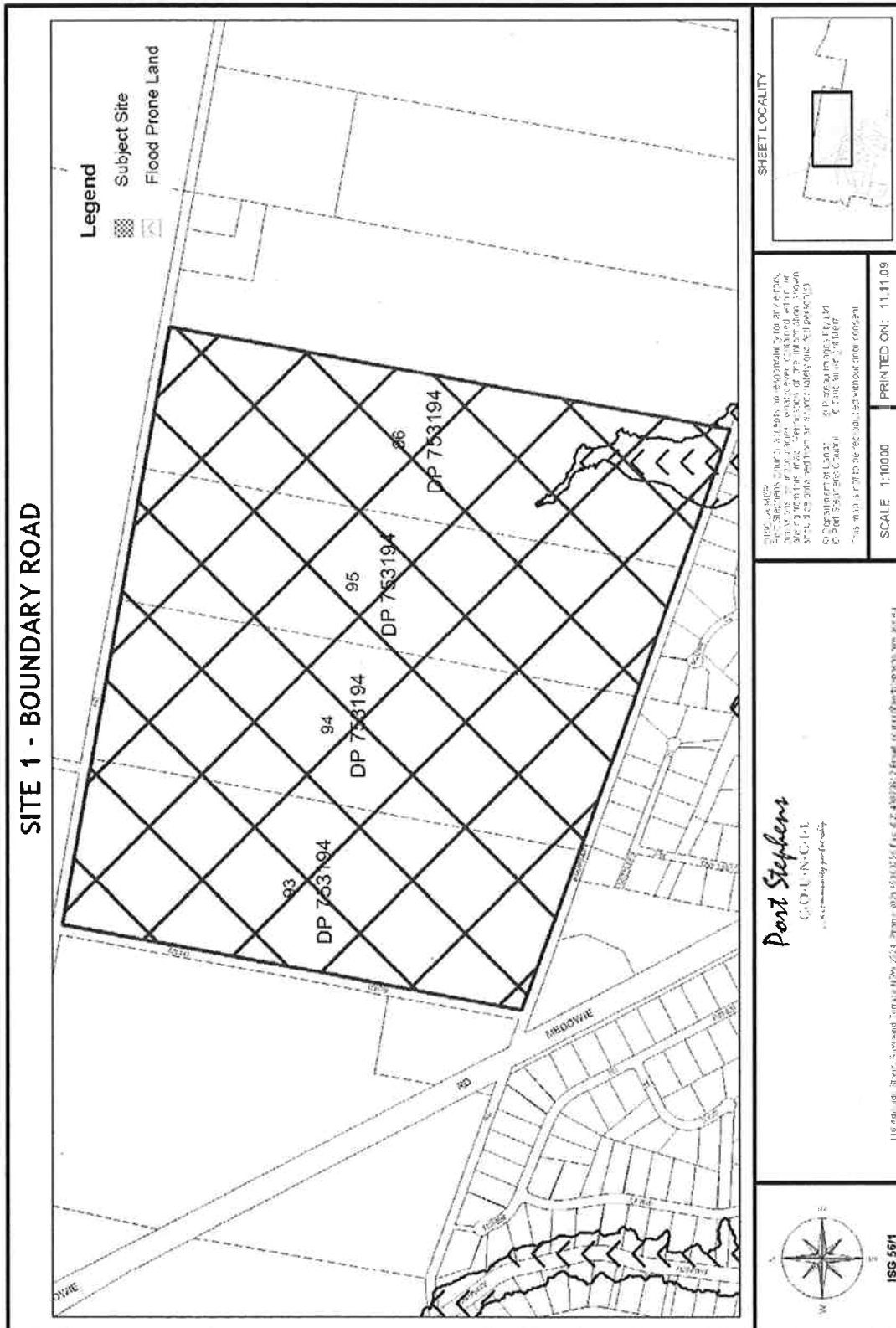
The social, economic and environmental implications of adopting the Medowie Strategy have been the subject of previous reports to Council. The recommended amendments to the Medowie Strategy have very similar sustainability implications and can be discussed in detail when rezoning requests are received for each site.

CONSULTATION

Comments from Environment Services section have been sought for Boundary Road (Site 1) and Ferodale Road West (Site 5) as environmental issues primary concerns for those sites. Those comments have been incorporated into the recommendations for each site.

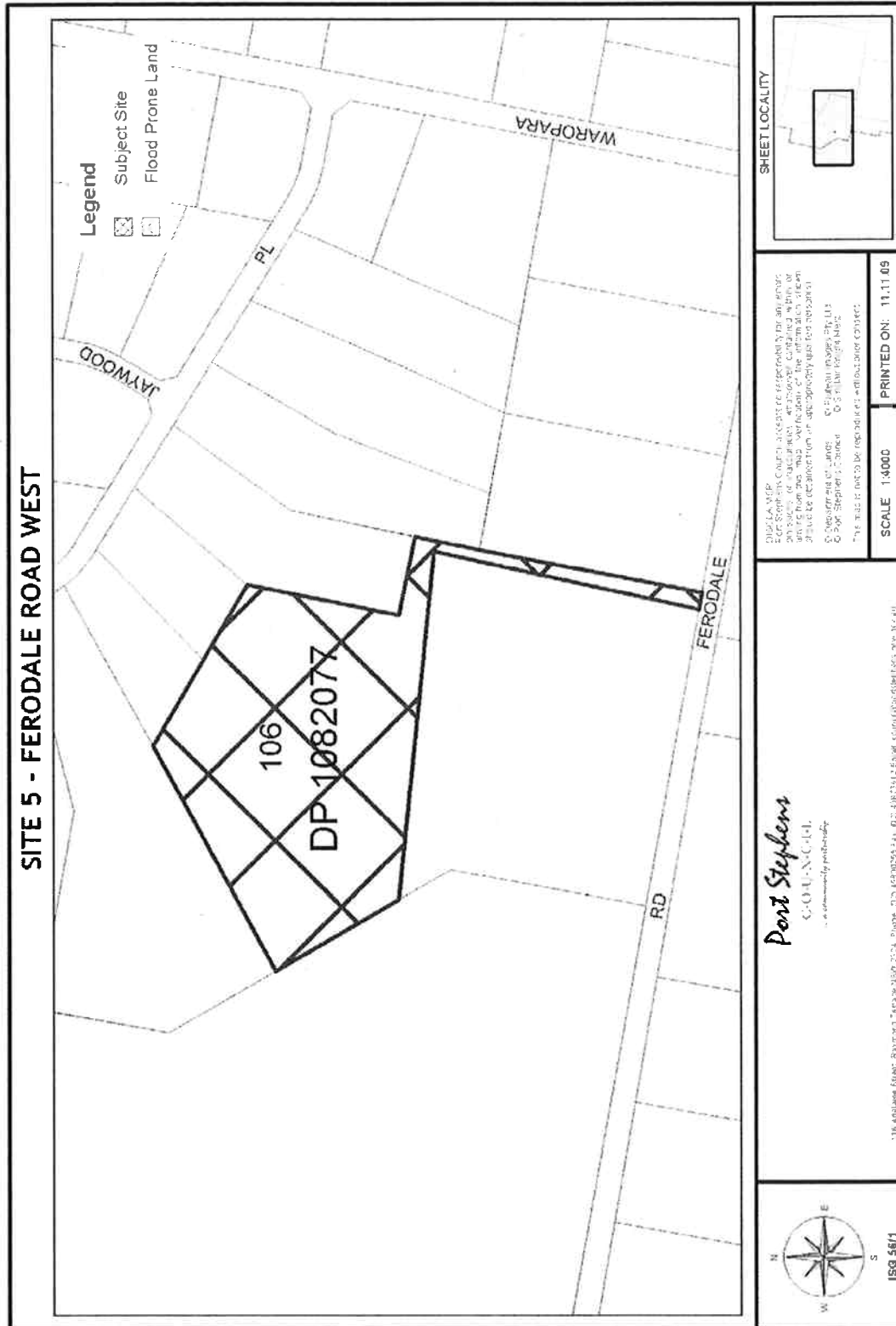
Further consultation in the form of a public exhibition will occur if Council resolves to support the recommended draft amendments to the Medowie Strategy.

ATTACHMENT 1
SITE 1



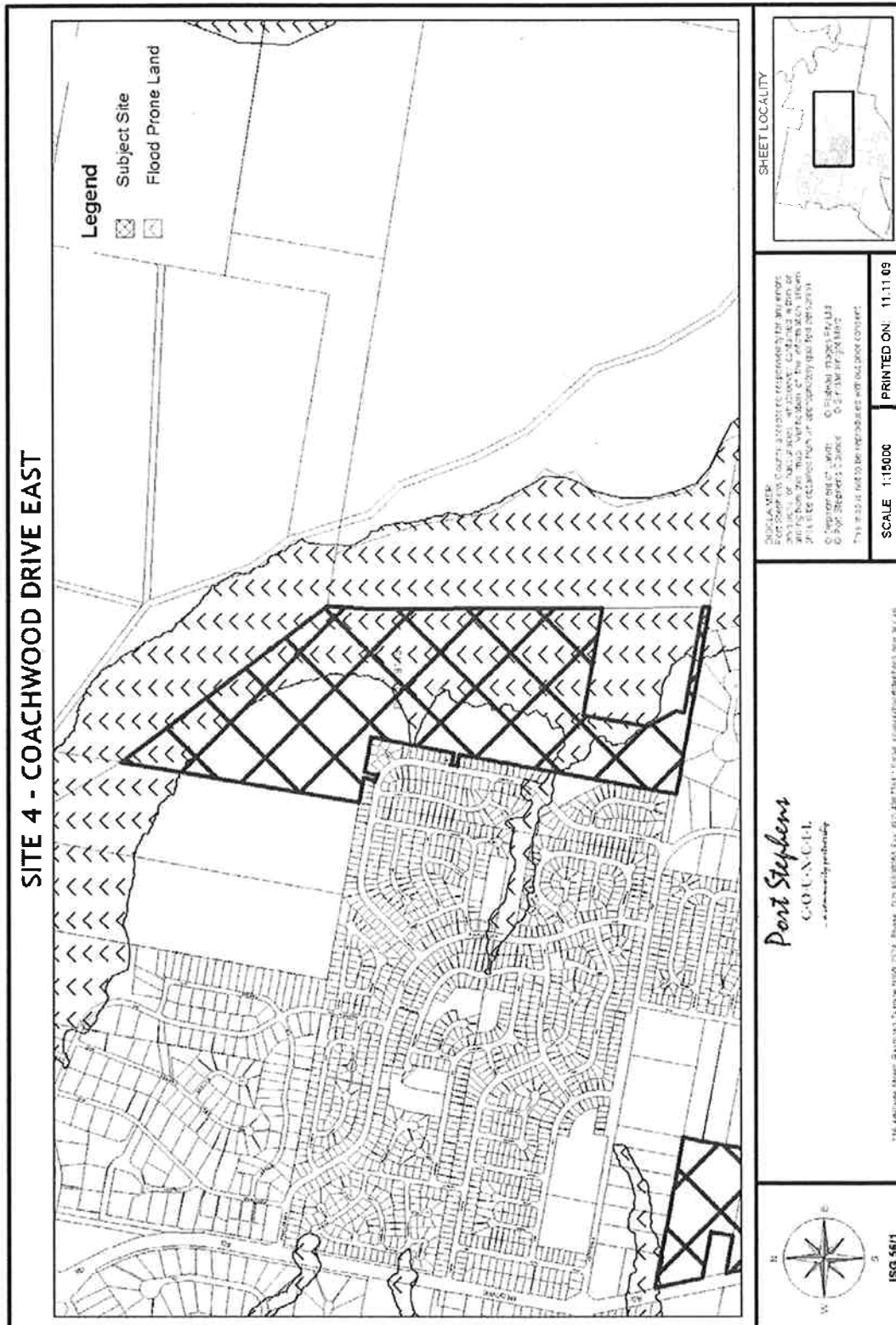
ATTACHMENT 3

SITE 5

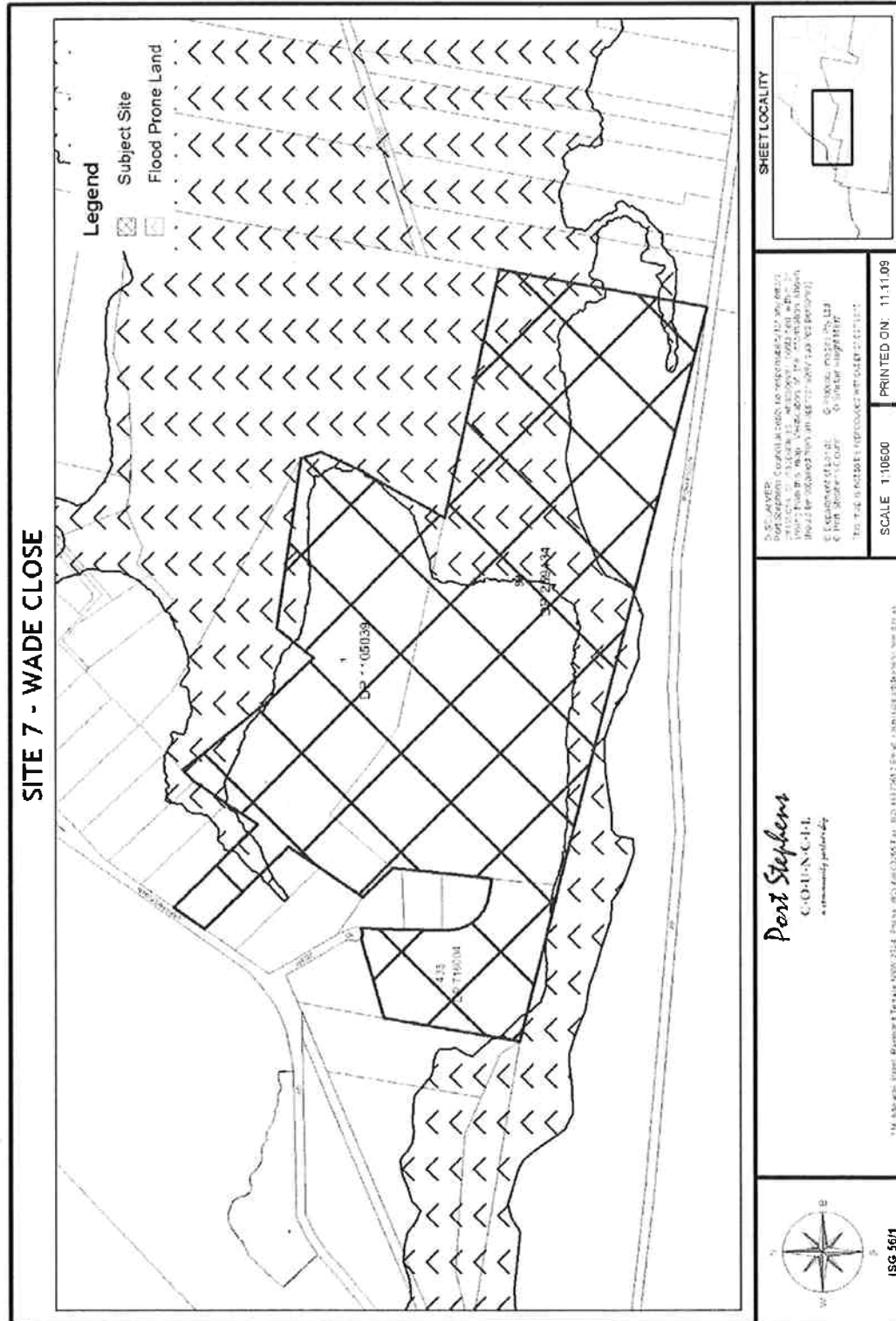


ATTACHMENT 5

SITE 4



ATTACHMENT 7
SITE 7



ATTACHMENT 9
LETTER TO EUREKA

Telegraphic Transcripts
David Roper
19 698 419
Please quote file no:
PC/2009/0009

Andrew Simons
Development Manager
Eureka Funds Management
GPO Box 4201
SYDNEY NSW 2001

Dear Andrew

Re: Draft Amendment to Medowie Strategy – Boundary Road, Medowie

I refer to our meeting this morning and now seek to confirm the outcomes as follows:

1. It is accepted that the whole site is covered by the "green corridor" identified in the Lower Hunter Regional Strategy. I also acknowledge that the designation of a "green corridor" still enables submissions to be made for rezoning of land contained in that corridor;
2. That the rezoning to Rural Residential for that part of the site north and north east of the proposed conservation area traversing the middle of the site is not supported (due to planning issues) professionally within my Group and that this sector of the site will be recommended to the Ordinary Meeting of Council on 24 November 2009 to be an Environmental Protection Zone;
3. That, apart from the land fronting Boundary Road, the remainder of the site will be recommended for an amendment to the Medowie Strategy for the development of rural small holdings enabling lots of smaller size to be created, indicatively 1,000 to 1,500 square metres;
4. That the subdivision proposed for lots fronting Boundary Road will be of similar size and configuration to lots that are existing on the southern side of Boundary Road with an intensification of yield from the remainder of this part of the site to support development feasibility (this sector of the site will be provided with reticulated water supply and sewer provision should it proceed to development);
5. The northern/north eastern sector that will be recommended for environmental conservation as an amendment to the Medowie Strategy and as a subsequent draft LEP would, for the best outcome in terms of management and conservation, be transferred to the ownership of the State Department of Environment, Climate Change and Water;
6. Therefore, the recommendation to Council for its meeting on 24 November will:
 - Recommend amendments to the Medowie Strategy as outlined above;
 - Recommend initiation of a draft LEP under Section 55 of the Environmental Planning & Assessment Act so that the "Gateway Proposal Process" can be initiated and on condition that any exhibition of the draft LEP will not be

Page 1

ATTACHMENT 10
LETTER OF RESPONSE FROM EUREKA



Eureka 1 Project 10 Pty Limited
ACN 118 109 418
Level 9, NAB House
255 George Street
Sydney NSW 2000
GPO Box 4201, Sydney 2001
P: 02 9255 0221
www.eurekafm.com.au

11 November 2009

Mr David Broyd
Group Manager
Sustainable Planning
Port Stephens Council
116 Adelaide Street
RAYMOND TERRACE NSW

Dear David

Draft Amendment to Medowie Strategy - Boundary Road Medowie
Your ref PSC2006-0029

We refer to our meeting on 9 November 2009 and your letter of the same date. We agree that the summary of the outcomes of the meeting in that letter accords with our understanding of the outcomes of the meeting. We enclose a draft plan, the North Medowie Neighbourhood Land Use Plan dated 11 November 2009 ("Land Use Plan"), which shows indicative land use proposals for the site prepared on the basis of the outcomes of our meeting.

We also confirm that Eureka 1 Project 10 Pty Limited ("Eureka") is willing to initiate negotiations with Council and the Department of Environment, Climate Change and Water ("DECCW") for the potential transfer of the north eastern sector of the Medowie Boundary Road site to public ownership.

We propose that this take the form of an offer by Eureka to enter into a planning agreement governed by Subdivision 2 of Division 6 of Part 4 the *Environmental Planning and Assessment Act 1979* ("EPA Act") with Council, and possibly also with DECCW, under which Eureka agrees to dedicate the north eastern sector of the site, generally in accordance with the area marked as EEC and Undeveloped land on the Land Use Plan, to the DECCW for no cost subject to:

- (a) the rezoning of the south west sector of the site, generally in accordance with the area marked Rural Small Holdings on the Land Use Plan (attached), to Rural Small Holdings (1,000m² - 1,500m²) as detailed within section A2.4 of the Medowie Strategy (adopted 24 March 2009); and
- (b) the subsequent granting of consent to a development application relating to this rezoning.

The specific details of any planning agreement to this effect would be the subject of further negotiations with Council.

A handwritten signature in black ink, appearing to read "Andrew Simons", is written over a horizontal line.

Andrew Simons
Development Manager
Eureka Funds Management
Ph: 02 9255 0221
Mob: 0434 515 659
Email: andrew.simons@eurekafm.com.au